

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

SHANIKA DAY Individually, and as the	)	
Administrator for the Estate of TERRELL DAY,	)	
HARVEY MORGAN Individually,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 1:17-cv-04612-TWP-TAB
	)	
THE CITY OF INDIANAPOLIS, et al.,	)	
	)	
Defendants.	)	

**ORDER ON TELEPHONIC STATUS CONFERENCE**

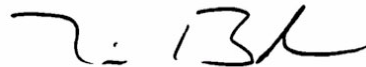
Parties appeared by counsel for a telephonic status conference on September 20, 2018, regarding a discovery dispute. Plaintiffs seek to depose Indianapolis Metropolitan Police Department Chief Bryan Roach. Plaintiffs argue that, though IMPD General Order 8.1 requires transporting prisoners by ambulance to the hospital, the policy in practice is to try to get prisoners to sign a waiver and decline going to the hospital. Plaintiffs argue they need to depose Chief Roach because only the chief can set official IMPD policy. Defendant City of Indianapolis objects, arguing that deposing Chief Roach is disproportionate to the needs of the case and unnecessary under the apex doctrine.

Plaintiffs fail to meet their burden under the apex doctrine. The apex doctrine requires that, before taking the deposition of a high-level decision maker who is removed from the daily subjects at issue, the requesting party must demonstrate that the official has unique personal knowledge of the relevant facts. *See Gumwood HP Shopping Partners L.P. v. Simon Prop. Group, Inc.*, 3:11-cv-268-JD-CAN, 2015 WL 13664418, at \*4 (N.D. Ind. July 7, 2015). As an initial matter, Chief Roach was not the chief when the incident occurred, which greatly reduces

the possibility Chief Roach has unique personal knowledge of the policy at the time of the incident. Plaintiffs offer to limit the deposition to 30 minutes in Chief Roach's office. While this concession would minimize the burden of such a deposition under the proportionality analysis, it does not justify it. Plaintiffs can obtain the answers they seek through interrogatories, written deposition questions, or requests for admissions. Further, the City offered to make available others who can testify about the policy: Assistant Chief of Administration Sarah Tuttle, who oversees the General Orders, or Sergeant Mike Daley, the legal advisor for both IMPD and IMPD's training academy.

For these reasons, Chief Roach's deposition is unnecessary, and the Court declines to compel the City to make Chief Roach available for a deposition at this time.

Date: 9/24/2018

A handwritten signature in black ink, appearing to read "T. Baker", written over a horizontal line.

Tim A. Baker  
United States Magistrate Judge  
Southern District of Indiana

Distribution:

Faith Elizabeth Alvarez  
LEE COSSEL & CROWLEY LLP  
falvarez@nleelaw.com

Darren Craig Chadd  
KIRTLEY TAYLOR SIMS CHADD & MINNETTE  
dchadd@tcmsclaw.com

David A. Izzo  
SELECTIVE STAFF COUNSEL OF INDIANA  
david.izzo@selective.com

Nathaniel Lee  
LEE COSSEL & CROWLEY LLP  
nlee@nleelaw.com

Andrew J. Upchurch  
OFFICE OF CORPORATION COUNSEL  
andrew.upchurch@indy.gov

Adam Scott Willfond  
OFFICE OF CORPORATION COUNSEL  
adam.willfond@indy.gov